

An Analysis of International Human Rights Measures vis-a-vis Comparative Evaluation of Domestic Violence

Dr. Pratap Chandra Dash, Snigdharani Hazarika
Principal cum Research Supervisor, Barpeta Law College, Barpeta
Research Scholar, Mahatma Gandhi University, Meghalaya

Abstract—Violence against women is a global issue, with high rates of violence in intimate relationships, sexual assault, stalking, and trafficking. These violations violate women's human rights, undermine democratic transitions, harm children, and cost societies significant economic costs. Activists, governments, and international organizations have pledged to eradicate this problem, but there are stark differences in governmental actions to address violence. Domestic violence, once seen as a private matter, is slowly being recognized as a social responsibility. In many communities, efforts are being made to transform social systems designed to protect a few into ones that guarantee the human rights of all. Women's human rights advocates emphasize that without freedom from violence; women cannot realize their other rights and participate in the development process. Therefore, fundamental changes in institutions and deeply embedded social and cultural beliefs are needed to effectively realize women's human rights. Here in this paper researchers are going to discuss about the problem of domestic violence form international to national concern with reference to human rights.

Key-words— sexual assault, violence, human rights, women, social

I. INTRODUCTION

Human rights are a set of ethical norms that govern the treatment of individuals and groups by states and non-state actors. These norms are incorporated into national and international legal systems, ensuring accountability and redress for alleged human rights violations. The use of human rights in ethical, legal and advocacy discourse is based on moral reasoning, socially sanctioned norms, or social mobilization. Human rights are primarily ethical demands, built on empathy and justice concepts in philosophy. In moral reasoning, "human rights" is often not distinguished from the more general concept of "rights," although in law, a "right" refers to any entitlement protected by law. The moral basis of a right can draw on concepts such as natural law, social contract, justice as fairness, consequentialism, and other theories of justice.

Ethical and religious precepts determine what one is willing to accept as properly a human right. These precepts are typically invoked in debates over current issues such as abortion, same-sex marriage, the death penalty, migration, and other social issues. The ethical basis of human rights has been defined using concepts such as human flourishing, dignity, duties to family and society, natural rights, individual freedom, and social justice against exploitation based on sex, class, or caste. Domestic violence is a universal issue, with much of it inflicted on girls and women by husbands, fathers, or other male relatives. Despite progress made regarding women's human rights through campaigns, violence remains a significant issue on the international human rights agenda.

1.1 Violence against Women: A Global Problem

Violence against women is more dangerous to the female population than terrorism or cancer in Europe. One-fifth to one-quarter of all women have experienced physical violence at least once during their adult lives, and more than one-tenth have suffered sexual violence involving the use of force. In the United States, one-third of all murdered women are murdered by their partners. Intimate violence is five times higher for women than for men, and much less likely to be reported to the police. Women are twice as likely as men to be killed by an intimate partner, and nearly two-thirds of women are murdered by people they know. Women are also likely to be raped by men they know, with only about half of all these rapes being reported to the police. Studies in Asia, Latin America, and Africa show that violence against women is ubiquitous. In Bangladesh, nearly half of all women reported being subjected to male violence in an intimate relationship. In Africa, rates of women ever assaulted by an intimate male partner range from 13 percent in South Africa to 30 percent in Nigeria. Despite greater awareness and changing norms, violence against

women continues and worsens in many parts of the world.

1.2 Objective of the Study

A study analyzing international human rights measures vis-à-vis a comparative evaluation of domestic violence laws is both necessary and serves several important objectives:

- To analyze the key international human rights instruments and principles relevant to domestic violence.
- To conduct a comparative evaluation of domestic violence laws across selected countries.
- To determine how well national legislation against domestic abuse conform to international human rights norms.
- To find, from a comparative standpoint, instances of successful legislative and policy measures to combat domestic abuse.
- To explore the difficulties and impediments to successfully enforcing domestic violence legislation in various settings.
- To formulate suggestions, based on comparative study and international human rights standards, for improving domestic abuse legislation and their application.

1.3 Methodology

The research will use a mixed-methods approach, integrating qualitative data analysis, comparative research, and doctrinal legal analysis. It will focus on international treaties such as the Convention on the Elimination of Discrimination Against Women and the Universal Declaration of Human Rights. Additionally, the study will assess domestic violence legislation in various nations, paying particular attention to important elements such as definition, applicability, remedies, criminalization, reporting, investigation, prosecution, and victim support services.

II. REVIEW OF LITERATURE

This review of literature will examine the body of research on the relationship between domestic violence and international human rights law, as well as comparative evaluations of domestic violence laws in other countries. It will emphasize important topics, arguments, gaps, and the development of scholarly and policy discourse in this crucial field.

2.1 International Legal Framework on Domestic Violence:

Human rights advocates believe that preventable or unnecessary suffering is unacceptable in a civilized world. They believe that all human beings are entitled to lives without suffering. Transforming social systems to guarantee these entitlements is an enormous undertaking, requiring a shift in social consciousness and political will. International conventions and accords have acknowledged the state's responsibility for human rights violations by private actors. The 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) establishes international standards for ensuring equality between women and men within the family and between the family and the state. The 1993 World Conference on Human Rights in Vienna emphasized the elimination of state and local biases in CEDAW implementation. The Declaration on the Elimination of Violence against Women and the Beijing Platform for Action further solidified the doctrine that women's rights are human rights. Over the past few decades, the international legal system addressing domestic abuse has undergone substantial change, with important UN agreements and declarations setting the groundwork for international norms in this field.

- Universal Declaration of Human Rights (UDHR): The 1948 UDHR, which outlines the fundamental freedoms and rights that every person is entitled to, is a pillar of international human rights legislation. Although domestic violence is not specifically mentioned in the UDHR, it does lay the groundwork for equality and nondiscrimination, stating that all people are created equal and free in terms of their rights and dignity. Given that women and girls are disproportionately affected by domestic abuse, this equity principle is essential for combating gender-based violence. The UDHR's wide reach guarantees that its tenets apply to a variety of human rights abuses, including those that take place in the home, setting the stage for later, more focused treaties that address violence against women.
- Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW): The most important international legal document safeguarding women's rights is the Convention on the Elimination of Discrimination Against Women (CEDAW), which was passed in 1979 and ratified by 189 nations. It prohibits

discrimination against women in all spheres of life and promotes gender equality. Gender-based violence is considered a form of discrimination by the Committee for the Elimination of Discrimination Against Women, even if the term "violence" is not used explicitly. States parties are required under CEDAW to take appropriate measures, such as enacting laws, to ensure women's complete development and advancement and their ability to enjoy fundamental freedoms and human rights on an equal basis with men.

- UN Declaration on the Elimination of Violence Against Women (DEVAW): The UN General Assembly's 1993 adoption of the Declaration of Violence Against Women (DEVAW) is the first international document to specifically address violence against women. Any act of gender-based violence that harms women physically, sexually, or psychologically is considered violence, including coercion, threats, or wilfully restriction of freedom. DEVAW encompasses state-sponsored violence as well as violence in the family and community. While not legally obligatory, it calls on governments to create administrative, labour, civil, and criminal punishments under their domestic laws and to denounce violence against women. Being the first international tool to focus on violence against women, DEVAW has had a major impact on international debate, increased awareness worldwide, and affected the creation of laws and policies to stop this violation of human rights.
- Other Relevant UN Instruments:
 - The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966, are fundamental human rights that are relevant to domestic violence. The ICCPR protects rights like life, liberty, and security of person, while the ICESCR acknowledges the right to the highest standard of physical and mental health. Domestic violence has profound negative impacts on victims' health, making these covenants relevant to addressing the issue. These broader human rights instruments provide legal foundations for framing domestic violence as a violation of fundamental rights and reinforcing states' obligations to take action.
 - The Palermo Protocol, adopted in 2000, aims to prevent, suppress, and punish trafficking in persons, particularly women and children, which is often linked to domestic violence and exploitation. The protocol commits states to prevent and combat trafficking, protect victims, and promote cooperation among states. It recognizes the interconnectedness of various forms of violence and exploitation, disproportionately affecting women and girls. The international legal framework on domestic violence is strengthened by regional human rights instruments that address specific contexts and challenges within different parts of the world.
 - The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), adopted by the Organization of American States in 1994, is the first legally binding international treaty to define and criminalize all forms of violence against women in the Americas. The Convention defines violence against women as any act or conduct causing death, physical, sexual, or psychological harm to women, whether in public or private spheres. It establishes the duties of states parties to condemn and prevent violence against women. The Convention of Belém do Pará is a significant regional instrument demonstrating a strong commitment to addressing violence against women.
 - The Maputo Protocol, adopted by the African Union in 2003, is a crucial treaty aimed at protecting women from discrimination, violence, political participation, and economic empowerment. It addresses violence against women, encompassing physical, sexual, psychological, and economic harm. This protocol demonstrates a strong regional commitment to women's rights and addressing specific forms of violence, considering the unique socio-cultural context of Africa. It aims to ensure women's participation in political life and promote economic empowerment.
 - The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), adopted in 2011, is a significant human rights treaty that establishes legal standards to protect women from violence. It

defines violence against women as a violation of human rights and a form of discrimination, encompassing all acts of gender-based violence causing physical, sexual, psychological, or economic harm to women. The Convention mandates signatory states to implement coherent legislation and policies based on the four "Ps": prevention, protection of victims, prosecution of perpetrators, and integrated policies. It also establishes a specialized independent body, GREVIO, to monitor the convention's implementation. The Istanbul Convention is considered a "gold standard" in combating violence against women due to its comprehensive approach and strong emphasis on state obligations.

- ASEAN does not have a pan-regional legally binding framework for domestic violence, but the Declaration on the Elimination of Violence against Women in the ASEAN Region (2004) and the ASEAN Human Rights Declaration (2012) address the issue. These declarations set regional standards and reaffirm commitments to eliminate violence against women, but are not legally binding, highlighting varying levels of commitment across regions.

The international norms and standards related to domestic violence have evolved significantly due to a growing global awareness of the issue as a serious violation of human rights. Early human rights law focused on general principles of equality and non-discrimination. However, the recognition of violence against women as a distinct human rights violation emerged in later decades, with key milestones including the CEDAW Committee's General Recommendations and the adoption of DEVAW. The 1993 World Conference on Human Rights explicitly recognized violence against women as a violation, and the 1995 Beijing Platform for Action identified concrete actions for governments to prevent and respond to violence against women and girls. The establishment of the UN Special Rapporteur on violence against women provided a dedicated mechanism for monitoring, reporting, and recommending measures to eliminate violence against women. Recent instruments, such as the Istanbul Convention, establish comprehensive and legally binding standards for addressing violence against women and domestic violence.

2.2 Highlighting Commonalities and Divergences in National Approaches

The analysis of national legal frameworks reveals commonalities, such as broad definitions of domestic violence aligned with international instruments like DEVAW and the Istanbul Convention, and a recognition of the need to criminalize abuse and establish protection orders. However, there are notable divergences in national approaches, with some countries targeting gender-based violence against women by intimate partners, while others apply broader criminal offenses. The extent to which economic and psychological abuse is explicitly addressed also varies, with some prioritizing criminal prosecution of offenders while others focus on providing civil protection and support to victims. The effectiveness of enforcement mechanisms and resource allocation also vary significantly across nations. The trend suggests a general movement towards aligning national laws with international human rights standards, but the specific approaches adopted reflect the unique legal histories, cultural contexts, and political priorities of each nation. While progress has been made in recognizing and legislating against domestic violence, the unevenness in the scope and implementation of these laws underscores the ongoing challenges in achieving comprehensive and effective protection for all individuals.

2.3 Measuring the Global Impact of Human Rights-Based Responses to Domestic Violence

Analyzing reports and data from non-governmental organisations and international organisations is necessary to assess how well international human rights initiatives are working to prevent domestic abuse across the world.

A. UN Women reports that countries with domestic violence legislation have lower rates of intimate partner violence compared to those without such legislation. However, only a limited number of countries have comprehensive legislation addressing domestic violence, indicating a significant gap in global protection. While many countries have taken action to implement and enforce laws against violence against women and strengthen services for survivors, UN data consistently shows that a significant percentage of women worldwide experience physical and/or sexual violence. The World Health Organization (WHO) emphasizes the pervasive nature of intimate partner violence globally

and the ongoing need for effective interventions guided by international norms.

B. Non-governmental organizations like Amnesty International and Human Rights Watch often criticize the effectiveness of international human rights measures against domestic violence. They argue that national legislation gaps, inadequate implementation of existing laws, and deeply entrenched societal attitudes hinder the effectiveness of these measures. Amnesty International advocates for stronger, legally binding international instruments to address violence against women and ensure state accountability. Human Rights Watch provides detailed country reports on progress and shortcomings in addressing domestic violence, highlighting discrepancies between international standards and national realities. NGOs generally view the current international human rights framework as insufficient to eradicate domestic violence, advocating for more comprehensive legal instruments and challenging underlying social and cultural norms.

III. COMPARATIVE EVALUATION OF DOMESTIC VIOLENCE LAWS

Many countries worldwide have integrated international human rights standards on domestic violence into their legal systems, with the extent and nature of this integration varying depending on the region, legal traditions, and socio-cultural contexts. Many nations have enacted specific domestic violence laws, but the level of comprehensiveness varies significantly. For example, the European Union's Directive on Violence Against Women is influenced by the principles and provisions of the Istanbul Convention, while India's Protection of Women from Domestic Violence Act (PWDVA) of 2005 recognizes and addresses domestic abuse in various forms. Mexico's General Law on Women's Access to a Life Free from Violence aligns national law with international human rights standards. The definition of domestic violence within national laws varies, with some adopting gender-neutral language and others acknowledging the gendered nature of the violence. The Istanbul Convention sets a high standard by criminalizing a broad range of behaviors as violence against women, including physical and sexual violence, psychological violence, stalking, forced marriage, and female genital mutilation. Some national laws, particularly in Europe, have expanded their criminal codes to include these forms of abuse.

Provisions for the protection and support of victims of domestic violence also differ significantly from country to country, with many nations establishing mechanisms such as protection orders or restraining orders.

The availability and accessibility of shelters, helplines, and support services for victims of domestic violence vary widely, reflecting different levels of government investment and societal prioritization. Some countries have implemented mandatory arrest policies, requiring law enforcement officers to arrest suspected perpetrators if there is probable cause to believe an act of domestic violence has occurred. Despite the variations in national approaches, there are similarities and differences in legal strategies. In many countries, domestic violence is increasingly recognized as a public crime, allowing legal proceedings to be initiated by the state without the victim's direct complaint or consent. However, direct testimony remains crucial in such cases, highlighting the complexities of prosecuting domestic violence. The standard of proof required in domestic violence cases can also differ significantly across jurisdictions, with some applying a very high standard, placing excessive burden on the victim. The role of mediation in addressing domestic violence is also a topic of debate, with some international and regional instruments, like the Istanbul Convention, explicitly discouraging mandatory mediation in cases involving violence. These differences highlight the lack of a universally agreed-upon methodology for addressing domestic violence, reflecting the influence of diverse legal traditions, cultural norms, and evolving policy considerations.

IV. CHALLENGES FOR EFFECTIVENESS AND IMPLEMENTATION

The effectiveness of international and national legal frameworks in reducing domestic violence is a complex task. While some studies suggest that domestic violence laws have reduced violence, the global prevalence remains alarmingly high. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has played a role in increasing the likelihood of countries adopting laws to combat violence against women. However, the persistent high rates of domestic violence globally point to significant challenges in the effective implementation and enforcement of these laws. Cultural barriers, lack of adequate

resources, enforcement issues, and insufficient coordination among government agencies, non-governmental organizations, and other stakeholders can hinder the successful implementation of these laws. Enforcement issues include weak enforcement of protection orders, inadequate monitoring of compliance, lenient penalties for perpetrators, and revictimization of survivors within the justice system. Insufficient coordination among various government agencies, non-governmental organizations, and other relevant stakeholders can undermine the effectiveness of efforts to address domestic violence. These multifaceted challenges underscore the complexity of addressing domestic violence, requiring not only legal reforms but also substantial societal and systemic changes to ensure meaningful protection and justice for victims. Monitoring mechanisms and civil society organizations (CSOs) play indispensable roles in promoting the effective implementation of domestic violence laws. International monitoring bodies, such as the CEDAW Committee and GREVIO, oversee compliance with international conventions, while CSOs advocate for legal and policy reforms at the national and international levels. Non-governmental organizations can significantly strengthen the effectiveness of CEDAW in combating violence against women by providing alternative information, advocating for the implementation of recommendations, and raising public awareness.

V. CONCLUSION AND RECOMMENDATIONS

International human rights measures have established norms and standards for addressing domestic violence, a fundamental violation of human rights. Regional instruments have amplified these efforts, providing more detailed and legally binding obligations for states. Many countries have incorporated these international standards into their domestic legislation, reflecting a growing global consensus on the need to combat domestic violence. However, the level of comprehensiveness and effectiveness of implementation vary significantly across jurisdictions. Challenges persist in the implementation and enforcement of domestic violence laws globally, including cultural barriers, lack of adequate financial and human resources, and political resistance to embracing international human rights standards on gender equality and violence against women. Monitoring mechanisms like the CEDAW Committee and GREVIO play a vital role

in promoting accountability and driving progress. Regional perspectives highlight the diverse legal frameworks and varying degrees of success and ongoing challenges in addressing domestic violence across Africa, Asia, Europe, and the Americas. To strengthen the international human rights framework and improve its implementation at the national level, the following recommendations are proposed.

- Improve the systems for monitoring and enforcing international agreements pertaining to violence against women, making sure that governments fulfil their responsibilities.
- Expand the availability of financial and technical support to help nations create and execute comprehensive domestic abuse legislation that fully complies with best practices and international human rights standards.
- To further develop their comprehension of gender-based violence, foster gender sensitivity, and increase their ability to manage domestic violence cases in a victim-centered manner, law enforcement officers, judges, healthcare professionals, and other pertinent professionals should invest in comprehensive and continuous training programs.
- Encourage ongoing public awareness campaigns and educational programs that challenge damaging cultural norms, beliefs, and behaviours that normalize violence against women and reinforce gender inequity in order to promote a respectful and nonviolent society.
- To guarantee a thorough and multi-sectoral response to domestic abuse, government ministries and agencies, non-governmental organisations, community-based organisations, and international organisations should coordinate and collaborate more effectively.
- To promote their safety, rehabilitation, and independence, make sure victims of domestic abuse have access to a wide range of all-inclusive and easily available support services, such as secure shelters, legal assistance, psychological counselling, and economic empowerment initiatives.
- Create and execute focused strategies to address the unique needs and vulnerabilities of marginalized groups of women, including women from minority communities, women with disabilities, and migrant women, who frequently face disproportionately high rates of domestic violence and additional obstacles to

receiving support and justice. Future studies and the creation of policies ought to concentrate on.

- Performing more thorough research to assess how certain laws, regulations, and initiatives affect the prevalence and incidence of domestic abuse and enhance the lives of survivors.
- Comparative studies are being conducted to evaluate the efficacy of various implementation techniques in various socioeconomic, legal, and cultural situations in order to discover best practices that can be scaled up and modified.
- Investigating novel and culturally relevant strategies to overcome deeply embedded cultural barriers that impede the reporting and prevention of domestic abuse, fostering the shift in society towards gender equality.
- Creating more efficient policies to hold domestic abusers responsible for their acts, deter recidivism, and support their rehabilitation.
- To guide more inclusive and focused responses, more research should be done on the intricate intersections of domestic violence with other types of vulnerability and discrimination, including race, ethnicity, sexual orientation, gender identity, disability, and socioeconomic position.

REFERENCE

- [1] Burton, B., Duvvury, N., & Varia, N. (n.d.). *Justice, Change, and Human Rights: International Research and Responses to Domestic Violence*. <https://www.icrw.org/wp-content/uploads/2016/10/Justice-Change-and-Human-Rights-International-Research-and-Responses-to-Domestic-Violence.pdf>
- [2] Weldon, L., & Htun, M. N. (2010, August 20). *Violence Against Women: A Comparative Analysis of Progress on Women's Human Rights*. https://www.researchgate.net/publication/228195174_Violence_Against_Women_A_Comparative_Analysis_of_Progress_on_Women
- [3] *UN Treaties on Violence Against Women*. (n.d.). www.stopvaw.org. https://www.stopvaw.org/un_treaties_on_violence_against_women
- [4] *Instruments and measures adopted by the United Nations*. (n.d.). Gender Matters. <https://www.coe.int/en/web/gender-matters/united-nations>
- [5] Failure to protect woman effectively against domestic violence violated Convention on Elimination of Discrimination against Women - Human Rights Law Centre. (2025). Human Rights Law Centre. <https://www.hrlc.org.au/case-summaries/failure-to-protect-woman-effectively-against-domestic-violence-violated-convention-on-elimination-of-discrimination-against-women/>
- [6] *Using the international and regional legal framework to stop all forms of violence against women and girls*. (2022). OHCHR. <https://www.ohchr.org/en/statements-and-speeches/2022/03/using-international-and-regional-legal-framework-stop-all-forms>
- [7] *AN ANALYSIS FOR ASEAN COUNTRIES BASED ON INTERNATIONAL STANDARDS AND GOOD PRACTICES Domestic Violence Legislation and its Implementation*. <https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEA/Asia/Docs/Publications/2015/03/Domestic%20Violence%20Legislation%20and%20its%20Implementation-CEDAW.pdf>
- [8] UN Women. (2019). *What we do: Ending violence against women*. UN Women; UN Women. <https://www.unwomen.org/en/what-we-do/ending-violence-against-women>
- [9] VAWnet. (2016). *International laws and policies to prevent and intervene in violence against women*. VAWnet.org. <https://vawnet.org/sc/international-laws-and-policies-prevent-and-intervene-violence-against-women>
- [10] *Treaties and conventions promoting women's rights: an overview*. (2023, March 8). Focus 2030. <https://focus2030.org/Treaties-and-conventions-promoting-women-s-rights-an-overview>